

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	John Rozen	Art Unit :	2153
Serial No. :	09/757,745	Examiner :	Yasin Barqadle
Filed :	January 10, 2001	Conf. No. :	8043
Title :	DISTRIBUTED SELECTION OF A CONTENT SERVER		

Mail Stop Appeal Brief - Patents

Commissioner for Patents
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REPLY BRIEF

Pursuant to 37 C.F.R. § 41.41, Applicant responds to the Examiner's Answer as follows:

Network exchange device does not receive request for content

Contrary to the Examiner's Answer, Applicant has not admitted that network exchange device 20 (hereafter "NED") receives "a request from a client *for desired content*."¹

The Examiner quotes the following from Applicant's response to the final office action:

"As noted above, Applicant agrees that a network exchange device, or router, receives requests from the user terminal device/client..."

However, the Examiner's Answer omitted the text that immediately followed, namely:

"But such requests are hardly requests for 'desired content.' They are simply requests for an IP address. An IP address is not 'desired content' An IP address is simply information that leads to desired content."

Thus, what Applicant actually admitted was that the NED 20 presumably receives *requests*. However, those requests are *not* requests for content. Like any router, the NED 20 receives requests for IP addresses.

One might now argue that the IP address is itself "desired content." But this argument would fail because according to the preamble, the "desired content" is stored at in the content server, and *not* at the origin server.²

¹ Examiner's Answer, page 12.

² Claim 1's preamble recites "a method for directing a client to a content server containing desired content."

The Examiner regards *Hasebe*'s NED 20 as corresponding to claim 1's "origin server," and not to claim 1's "content server." Similarly, the Examiner regards claim 1's "content server" as corresponding to any one of *Hasebe*'s information distribution devices 60. Given the foregoing correspondence, an IP address cannot be regarded as "desired content" within the meaning of claim 1 because the IP address would be stored at the NED 20 (i.e. "the origin server"), and not at the "information distribution device 60" (i.e. "the content server").

***Hasebe*'s NED 20 is a router, not an "origin server"**

The Examiner has mischaracterized the network exchange device 20 as an origin server. In fact, the network exchange device 20 is simply a conventional router, and nothing at all like an origin server.

The Examiner's Answer states that in *Hasebe*'s FIG. 7, "it is clear that a request for information from user terminal 10 is received at origin server (device 20)."³

It is certainly apparent, from inspection of *Hasebe*'s FIG. 7, that NED 20 and user terminal 10 communicate with each other. But it is far from clear, from FIG. 7, that the communication between the user terminal 10 and the NED 20 includes a request for desired content. To identify the nature of the communication, it is necessary to consult the specification.

Hasebe makes it clear that a "network exchange device" is simply another name for a router. For example, *Hasebe* states that

*"[t]he communication network exchange device 40 is essentially an element for controlling a route at a time of transmitting the information"*⁴

In describing FIG. 8, *Hasebe* states:

This information distribution device selection system of FIG. 8 is a system in which information distribution devices 60A, 60B, and 60C having both the identical communication terminal identifier and the individual communication terminal identifiers are respectively provided within a plurality of information distribution service communication networks 50A, 50B, and 50C, which are physically different

³ Examiner's Answer, page 12.

⁴ *Hasebe*, col. 7, lines 58-60.

*but having the identical communication network identifier and the individual communication network identifiers, and connected with each other through communication network exchange devices 40A, 40B, and 40C, that have routing control functions for the sake of making inter-connection with the other communication networks.*⁵

Hasebe further describes network exchange devices as follows:

*The communication network exchange device 40 is connected between the user terminal device 10 and the information distribution device 60 and has a function for constantly exchanging routing information with the other communication network exchange devices 40 and controlling a route between the user terminal device 10 and the information distribution device 60.*⁶

Since *Hasebe* uses the term “network exchange device” to refer to both network exchange devices 20 communicating with user terminal 10 and network exchange devices 40 communicating with the information distribution devices 60, it is reasonable to infer that the network exchange devices 20 and 40 carry out identical functions. Thus, it is difficult to avoid the inference that the network exchange device 20 that the Examiner regards as being claim 1’s “origin server” is structurally and functionally identical to the network exchange devices 40, which, as described above, are essentially routers.

The Examiner’s Answer appears to recognize this on page 17, which states that “[d]evice 20A shows a table identifying the route for content server 60A (IP address 192.0.0.1).” Maintaining tables showing routes is what a router does. Hence, even the Examiner’s Answer appears to recognize that network exchange device 20 functions as a router.

The Examiner’s Answer further states that the claim 1’s “origin server” is similar to NED 20 because both carry out the function of providing a shared IP address.⁷

However, the fact that two things are capable of carrying out the same function does not make them the same thing. A router, such as NED 20, is not an origin server.

⁵ *Hasebe*, col. 6, line 63-col. 7, line 9.

⁶ *Hasebe*, col. 8, lines 23-30.

⁷ *Examiner’s Answer*, page 13.

As described in the specification, the origin server recited in claims 1 and 6 is a full-fledged server that maintains web pages for delivery upon request.⁸ Thus, the claimed origin server would be capable of returning a requested web page if it were appropriate to do so. The use of the term "origin server" in content delivery systems is well-known. In the context of a content delivery system, the origin server is where the content to be delivered originates. From the origin server, the content can be provided to multiple content servers, for ultimate distribution to users.

As described in *Hasebe*, the NED's 20 and 40 are essentially routers. They cannot carry out the functions characteristic of an origin server. If a device cannot carry out the functions of an origin server, it makes no sense to call it an origin server. Since the NEDs 20 and 40 cannot carry out the functions of an origin server, it makes no sense to call them origin servers.

Since *Hasebe* fails to show anything that could be characterized as an origin server as claimed, Applicant requests reversal of the section 102 rejection based on *Hasebe*.

For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed.

No additional fees are believed to be due in connection with the filing of this reply brief. However, to the extent fees are due, or if a refund is forthcoming, please adjust our deposit account 06-1050, referencing attorney docket "11125-017001."

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Respectfully submitted,



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⁸ *Specification* at page 1, lines 5-18.